

FISCAL NOTE

Bill #: HB0279

Title: Eliminate death penalty as sentence
for second rape convictions

**Primary
Sponsor:** Joan Hurdle

Status: As introduced

Sponsor signature	Date	Dave Lewis, Budget Director	Date
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Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:	\$0	\$0
Revenue:	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. The Department of Corrections (DOC) does not have any offenders who were sentenced to death under 45-5-503, MCA. Therefore, it does not appear that the loss of this option will result in financial impact to the DOC.
2. The DOC assumes that an offender would be required to pay for the outpatient treatment referred to in Subsection 4(b).
3. There is no fiscal impact to the Department of Justice.
4. There is no fiscal impact to the state-funded Judiciary.

FISCAL IMPACT:

	<u>FY2000</u> <u>Difference</u>	<u>FY2001</u> <u>Difference</u>
<u>Expenditures:</u>	\$0	\$0
<u>Funding:</u>	\$0	\$0
<u>Revenues:</u>	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>	\$0	\$0

LONG-RANGE IMPACTS: Due to technical note number two, the legal liability to the DOC could increase.

TECHNICAL NOTES:

1. Subsection 4(c) of this bill requires a person convicted under subsection (2) or (3) to undergo an independent psychological examination to determine an appropriate treatment program. Currently, 46-18-111, MCA, requires a psychosexual evaluation to be performed and a recommendation of treatment. A sex offender therapist who is a member of the Montana Sex Offender Treatment Association (MSOTA) program or who has comparable credentials must complete this evaluation. MSOTA evaluation standards currently require that a therapist must evaluate items in subsection 4(c)(i) through 4(d).
2. This bill is potentially in conflict with 46-23-215(1), MCA. By limiting the length of outpatient sex offender therapy to two years, the bill places a limit on conditions that the Board of Pardons and Parole can place on offenders. It also places limits on parole officer and therapist discretion in treating the offender.